

DEPARTMENT OF STATE REVENUE

03980206.LOF

LETTER OF FINDINGS NUMBER: 98-0206 WTH
Withholding Tax

For The Period: January, 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d), 45 IAC 15-11-2

Taxpayer protests the imposition of the penalty.

II. Tax Administration - Interest

Authority: IC 6-8.1-10-1(e)

Taxpayer protests the imposition of interest.

STATEMENT OF FACTS

Taxpayer is the administrative arm to twelve nursing homes who performs all administrative and accounting functions. Taxpayer acquired corporation PM for which corporation PM withheld state and local taxes for January 1997. The taxes were not remitted to the state by corporation PM and taxpayer believed it would be remitted by PM. In the meantime, an agreement was made in early February 1997 for the taxpayer to take over operations retroactive to January 1997.

Taxpayer provided a written brief and presented oral arguments in the meeting with the department's representative.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer is subject to a penalty.

The taxpayer presented its case, provided the withholding tax check, and requests the department waive its negligence penalty.

The department has not billed the taxpayer who has come forward with information and the department has not found negligence, therefore, the penalty is waived.

FINDING

Taxpayers protest is sustained.

II. Tax Administration – Interest

At issue is whether the taxpayer is subject to interest.

Taxpayer states it should not be subject to interest for failure to remit tax due for a subsidiary it had acquired.

IC 6-8.1-10-1(e) states:

Except as provided by IC 6-8.1-5-2(d)(2), the department may not waive the interest imposed under this section.

Taxpayer provided the hearing officer with a interest check of seven percent (7%) from due date of the return.

FINDINGS

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is sustained in Issue I and denied in Issue II.